

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**BARBARA COHEN, individually and on
behalf of others similarly situated,**

Plaintiffs,

v.

AVALONBAY COMMUNITIES, INC.,

Defendant.

07 CIV. 0242

ROBINSON

COMPLAINT

1. The Plaintiff brings this action for unpaid overtime on her own behalf and on behalf of similarly situated employees. The Defendant has rental communities around the country and employs Leasing Consultants in those communities to lease apartments and provide customer service. It employed the Plaintiff as a Leasing Consultant in its Nanuet, New York rental community. During her employment, the Plaintiff regularly worked more than 40 hours in a week, but the Defendant did not pay her for the overtime hours as required under the Fair Labor Standards Act.

JURISDICTION

2. Jurisdiction is conferred upon this Court by 29 U.S.C. §216(b) of the Fair Labor Standards Act ("FLSA"), by 28 U.S.C. §1331, this action arising under laws of the United States, and by 28 U.S.C. §1337, this action arising under Acts of Congress regulating commerce. Jurisdiction over the Plaintiffs' claims for declaratory relief is conferred by 28 U.S.C. §§2201 and 2202.

VENUE

3. Venue is proper in this District pursuant to 28 U.S.C. §1391(b)(2). A substantial part

of the events and omissions giving rise to the claim occurred in this District.

PARTIES

A. Plaintiff

4. The named Plaintiff, Barbara Cohen, was an employee of Defendant. A Consent to Sue is attached at the back of this Complaint.
5. The Plaintiff was engaged in commerce while working for Defendant.
6. The term "Plaintiffs" as used in this complaint refers to the named Plaintiff and all Leasing Consultants or employees with the same or substantially similar job duties who were not paid time and one half overtime pay for hours over 40, pursuant to the collective action provision of 29 U.S.C. §216(b).
7. Upon information and belief, the Defendant regularly engage the Plaintiffs to work without paying them overtime premium pay for work hours more than 40 in a week.

B. Defendant

8. The Defendant is in the business of developing, acquiring and managing luxury rental communities.
9. It manages luxury rental communities in several states across the country.
10. The Defendant lists Suite 300, 2900 Eisenhower Avenue, Alexandria, VA 22314 as the address of its corporate headquarters.
11. Upon information and belief, the Defendant operates an enterprise engaged in commerce within the meaning of the FLSA.
12. Upon information and belief, for each of the 3 years preceding the filing of the initial complaint herein, defendants have employed 2 or more individuals "handling, selling,

or otherwise working on goods or materials that have been moved in or produced for commerce.”

FACTS

13. The Defendant has rental communities in several states across the country, including California, Connecticut, Illinois, Maryland, Massachusetts, New Jersey, New York, Washington, and the District of Columbia.
14. It hires Leasing Consultants to work in those communities leasing apartments and providing customer service to residents and prospective residents.
15. The Plaintiff was employed by the Defendant as a Leasing Consultant from about February 2004 through July 2006.
16. The Plaintiff worked in the Defendant’s community in Nanuet, New York.
17. As a Leasing Consultant, the Plaintiff leased apartments and provided customer service to residents and prospective residents.
18. The Plaintiff was paid on an hourly basis.
19. The Plaintiff regularly worked more than 40 hours per week for the Defendant.
20. The Defendant failed to pay the Plaintiff overtime compensation at the rate of time and one-half for all hours worked more than 40 in a week.
21. The Defendant failed to pay other Leasing Consultants overtime compensation at the rate of time and one-half for all hours worked more than 40 in a week.
22. Defendant’s failure to pay the Plaintiffs the proper wages required by law was willful.
23. All actions and omissions described in this complaint were made by the Defendant directly or through its supervisory employees and agents.

CAUSE OF ACTION

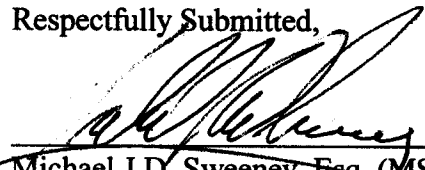
24. The Defendant failed to pay premium overtime wages to the Plaintiffs in violation of the FLSA, 29 U.S.C. §203, 207 et seq., and its implementing regulations.
25. The Defendant's failure to comply with the FLSA caused the Plaintiffs to suffer loss of wages and interest thereon.

WHEREFORE, The Plaintiff requests that this Court enter judgment or an order:

- A. Declaring that the Defendant violated the FLSA;
- B. Declaring that the Defendant's violations of the FLSA were willful;
- C. Awarding damages for the Plaintiffs' claims of unpaid wages as secured by the FLSA as well as an equal amount in liquidated damages;
- D. Awarding the Plaintiffs' costs, including expert witness expenses, and reasonable attorneys' fees; and
- E. Granting such further relief as the Court finds just.

Dated: January 9, 2007

Respectfully Submitted,



Michael J.D. Sweeney, Esq. (MS 7959)
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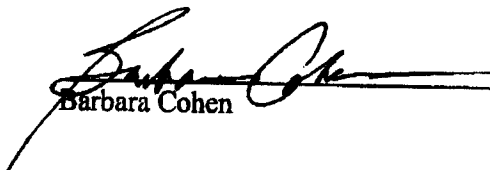
ATTORNEYS FOR PLAINTIFF

CONSENT TO SUE UNDER THE F.L.S.A.

I, Barbara Cohen, hereby consent to be a plaintiff in an action under the Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*, to secure any unpaid wages, overtime pay, liquidated damages, attorneys' fees, costs and other relief arising out of my employment with AvalonBay Communities, Inc. and any other associated parties.

I authorize Getman Law Office, Michael J.D. Sweeney, Esq., and any associated attorneys as well as any successors or assigns, to represent me in such action.

Dated: 1-8-07


Barbara Cohen